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In re Reissue Application of
KOCH, FRANK J., et al.
Application No. 09/542,640
Filed: 04/03/2000
Original Patent No.: 5,930,744
Issue Date: 07/27/1999
Attorney Docket No. 007325-077

Paper No. 6
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OFFICE OF PETITIONS
A/C PATENTS
DECISION ON
PETITION

This is a decision on the June 5, 2000 response to the notice of incomplete application. The response is being treated as a petition requesting that the above-identified reissue application be accorded a filing date of April 3, 2000.

The reissue application was deposited with the USPTO on April 3, 2000. The filing included a copy of the original letters patent (no. 5,930,744) along with new claims (31-45), an unsigned declaration under 37 C.F.R. §1.175(a), an information sheet, a request for transfer of formal drawings, and a reissue application fee transmittal form. No drawings were submitted.

On May 10, 2000, the Office of Initial Patent Examination mailed a notice of incomplete reissue application to the address of record. This notice stated that the application was deposited without drawings and that the filing date of the application would be the date of receipt of the drawings. A two month period was set for responding.

Petitioner timely responded on June 5, 2000 with this petition asserting that the requirement of drawings has already been satisfied with the request for transfer of formal drawings that was filed with the application. Petitioner's response is not well taken.

With respect to the submission of drawings in a reissue application, Petitioner is informed that while (at the time that this petition was filed) formal drawings can be transferred from the original patent file to the reissue application, the transfer of the drawings does not relieve applicants of the duty to provide copies of the drawings with the application papers. The necessity for filing drawings with the reissue application papers is clearly set forth in 37 C.F.R. §1.174(a) which states:

"(a) The drawings upon which the original patent was issued may be used in reissue applications if no changes whatsoever are to be made in the drawings. In such cases, when the reissue application is filed, the applicant must submit a temporary drawing which may consist of a copy of the printed drawings of the patent or a photoprint of the original drawings of the size required for original drawing."

Petitioner has not offered any drawings to date. Accordingly, *this petition is dismissed*.

Since this is a reissue application, the late submission of the drawings does not raise any issue of new matter. Therefore, in a renewed petition, the Commissioner may excuse the delay in supplying the copy of the drawings and accord the application the requested filing date. Of course, this cannot happen until the drawings are submitted.

Petitioner is reminded that 37 C.F.R. §1.174 has been removed, effective November 7, 2000. Also effective as of November 7, 2000, under 37 C.F.R. §1.173(a)(2), the office will no longer transfer the drawings from the patent application to the reissue application.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.53(b)".

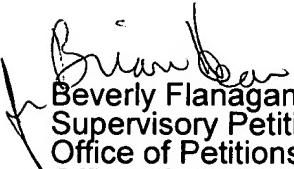
Further correspondence with respect to this matter should be addressed as follows:

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Telephone inquiries related to this decision should be addressed to Petitions Attorney Scott M. Ledford at (703) 306-5593.


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